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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/674,599	10/01/2003	Thomas W. Saur	TWS 0001	4491

7590 06/14/2004
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EXAMINER

RICHARDSON, JOHN A

ART UNIT	PAPER NUMBER
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3641

DATE MAILED: 06/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/674,599

Applicant(s)

SAUR, THOMAS W.

Examiner

John Richardson

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 October 2003.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1, 10, 19 and 20 is/are rejected.
7) ☒ Claim(s) 2-9 and 11-18 is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 10-01-2003.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Non Final Rejection

1). The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2). The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3). Claims 1, 19, 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Marsh (U.S. 4,430,820).

The reference discloses a firearm reading on the cited independent claims 1, 19 comprising an ejection port as shown in Figure 3, and described in Column 3, lines 29-34, a cartridge case receiver for collecting spent shells (item 10) in the form of a rigid hollow structure (Column 2, lines 60+) with a plurality of planar surfaces (items 30, 32),

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and wherein one of the walls of the housing is in communication with the said firearm ejection port (see Figure 3), and wherein the said cartridge case receiver is mounted on the said firearm (see Figure 1), the said housing planar surfaces (items 30, 32) are lined with laminated layers such as rubber / foam as stated in Column 3, lines 14-23 and see for example, Merriam-Webster's Collegiate Dictionary, 10th Edition, for the definition of *foam rubber as being a spongy rubber of fine texture made from latex by foaming before vulcanization*, the said laminated layered surfaces are configured in an oblique angled orientation / wedged shape for the purpose of deflecting the impact of the spent shell casings as described in Column 2, lines 3-23, and Column 3, lines 33-40, relating to claim 20, the reference discloses the said housing lining oblique angled surfaces / wedges slanted away from the said shell casing ejection opening in a manner such that the said shell casings are deflected away from the said opening and resisted from traveling back toward the said opening during travel in the said housing confinement as shown in Figure 3.

4). Claims 1, 10, 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Blanchet (U.S. 5,934,002) in view of Marsh (U.S. 4,430,820).

The reference discloses a firearm empty shell casing collection device that prevents clogging / jamming of ejected shell casing pathways (Column 1, lines 43-50) comprising an ejection port for a C9 rifle, a solid walled hollow collection housing container (item 3, Column 2, lines 63-67), the said container is constructed in the form

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of a plurality of corrugated / wedged shaped inner surfaces formed from moulded polymer (Column 3, lines 26-28) and it is the examiner's position that these corrugated surfaces provide acoustic attenuation and provide the means for deflecting the said shell casings in the passage to the shell casing collection system.

The primary reference discloses the claimed invention except for citing a form of acoustic foam on the internal surface of the said shell casing collection container. The secondary reference discloses that it is well known in the firearm spent shell casing art to provide foam in the form of spungy rubber for collection container lining. It would have been obvious to one of ordinary skill in the art at the time of the invention to have provided the Blanchet high temperature resistant polymer with the Marsh spongy foam rubber as these are recognized art equivalents, since the examiner takes Official Notice of the equivalence of high temperature resistant polymer with the spongy foam rubber for their use in the art and the selection of any of these known equivalents to provide acoustic attenuation would be within the level of ordinary skill in the art.

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5). Claims 2-9, 11-18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

6). The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

7). Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Richardson whose telephone number is (703) 305 0764. The examiner can normally be reached on Monday to Thursday from 7.00 AM to 4.30 PM. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Carone, can be reached on (703) 306 4198. The fax phone number for the organization where this application or proceeding is assigned is (703) 305 7687.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308 1113.

John Richardson, PE,

June 07 2004.



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